

ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ALAN KACHALSKY, CHRISTINA NIKOLOV,
ERIC DETMER, JOHNNIE NANCE, ANNA
MARCUCCI-NANCE, and SECOND AMENDMENT
FOUNDATION, INC.,

10 Civ. 5413 (CS) (GAY)

NOTICE OF APPEAL
IN A CIVIL CASE


Plaintiffs,

-against-

SUSAN CACACE, JEFFREY A. COHEN,
ALBERT LORENZO, ROBERT K. HOLDMAN,
and COUNTY OF WESTCHESTER,

Defendants.
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Notice is hereby given that the Defendant County of Westchester hereby appeals to the United States Court of Appeals for the Second Circuit from that portion of the Judgment entered in this action on the 7th day of September, 2011 which denied the County of Westchester's motion to dismiss.


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DATED: September 22, 2011

**U.S. District Court
Southern District of New York (White Plains)
CIVIL DOCKET FOR CASE #: 7:10-cv-05413-CS**

Kachalsky et al v. Cacace et al
Assigned to: Judge Cathy Seibel
Cause: 42:1983 Civil Rights Act

Date Filed: 07/15/2010
Date Terminated: 09/07/2011
Jury Demand: Plaintiff
Nature of Suit: 950 Constitutional – State
Statute
Jurisdiction: Federal Question

Plaintiff

Alan Kachalsky

represented by **Vincent Gelardi**
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Plaintiff

Christina Nikolov

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Alan Gura
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Plaintiff

Second Amendment Foundation, Inc.

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LEAD ATTORNEY
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Alan Gura
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Plaintiff

Johnnie Nance

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Plaintiff

Anna Marcucci–Nance

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Plaintiff

Eric Detmer

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V.

Defendant

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Defendant

Jeffrey A. Cohen

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Monica Anne Connell
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Defendant

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Defendant

Albert Lorenzor

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Defendant

Robert K. Holdman

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Interested Party

Brady Center to Prevent Gun Violence

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Interested Party

Academics for the Second Amendment

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Interested Party

**LI Second Amendment Preservation
Association**

represented by **Lloyd M. Eisenberg**
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V.

Amicus

**WESTCHESTER COUNTY
FIREARMS OWNERS
ASSOCIATION, INC.**

represented by **Anthony George Piscionere**
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Date Filed	#	Docket Text
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07/15/2010	<u>1</u>	COMPLAINT against Susan Cacace, Jeffrey A. Cohen, County of Westchester. (Filing Fee \$ 350.00, Receipt Number 903168)Document filed by Alan Kachalsky, Christina Nikolov, Second Amendment Foundation, Inc..(mml) (Entered: 07/16/2010)
07/15/2010		SUMMONS ISSUED as to Susan Cacace, Jeffrey A. Cohen, County of Westchester. (mml) (Entered: 07/16/2010)
07/15/2010		Case Designated ECF. (mml) (Entered: 07/16/2010)
07/15/2010		Magistrate Judge GEORGE A. YANTHIS is so designated. (mml) (Entered: 07/16/2010)
07/15/2010	<u>2</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Alan Kachalsky, Christina Nikolov, Second Amendment Foundation, Inc..(mml) (Entered: 07/16/2010)
07/20/2010	<u>6</u>	MOTION for Alan Gura to Appear Pro Hac Vice. Document filed by Alan Kachalsky, Christina Nikolov, Second Amendment Foundation, Inc.. (Attachments: # <u>1</u> Affidavit)(fk) (Entered: 07/21/2010)
07/21/2010	<u>3</u>	AFFIDAVIT OF SERVICE of Summons and Complaint. Susan Cacace served on 7/16/2010, answer due 8/6/2010. Service was accepted by Paula DeGaetano. Document filed by Alan Kachalsky; Christina Nikolov; Second Amendment Foundation, Inc.. (Gelardi, Vincent) (Entered: 07/21/2010)
07/21/2010	<u>4</u>	AFFIDAVIT OF SERVICE of Summons and Complaint. Jeffrey A. Cohen served on 7/16/2010, answer due 8/6/2010. Service was accepted by Paula Degaetano. Document filed by Alan Kachalsky; Christina Nikolov; Second Amendment Foundation, Inc.. (Gelardi, Vincent) (Entered: 07/21/2010)
07/21/2010	<u>5</u>	AFFIDAVIT OF SERVICE of Summons and Complaint. County of Westchester served on 7/16/2010, answer due 8/6/2010. Service was accepted by Donna Dickson. Document filed by Alan Kachalsky; Christina Nikolov; Second Amendment Foundation, Inc.. (Gelardi, Vincent) (Entered: 07/21/2010)
07/22/2010	<u>7</u>	ORDER granting <u>6</u> Motion for Alan Gura to Appear Pro Hac Vice. (Signed by Judge Cathy Seibel on 7/22/10) (fk) (Entered: 07/22/2010)
08/06/2010	<u>8</u>	NOTICE OF APPEARANCE by Anthony John Tomari on behalf of Susan Cacace, Jeffrey A. Cohen (Tomari, Anthony) (Entered: 08/06/2010)
08/18/2010	<u>9</u>	ENDORSED LETTER addressed to Judge Cahty Seibel from Anthony Tomari dated 8/13/10 re: Request for a pre-motion conference. ENDORSEMENT: Pre-motion conference to be held on September 7, 2010 at 2:15 pm regarding County's and Individuals' proposed motions. So Ordered. (Signed by Judge Cathy Seibel on 8/17/10) (fk) (Entered: 08/18/2010)
08/18/2010		Set/Reset Hearings: Pre-Motion Conference set for 9/7/2010 at 02:15 PM before Judge Cathy Seibel. (fk) (Entered: 08/18/2010)
08/18/2010	<u>10</u>	NOTICE OF APPEARANCE by Melissa-Jean Rotini on behalf of County of Westchester (Rotini, Melissa-Jean) (Entered: 08/18/2010)
08/18/2010	<u>11</u>	LETTER addressed to Judge Cathy Seibel from Alan Gura dated 8/16/2010 re:...This letter is submitted pursuant to Your Honor's Individual Practices to respectfully request the scheduling of two motions: (1)a motion to add parties, and (2) a cross motion for summary judgment.Plaintiff's will respond separately to Defendants' letters seeking to schedule motion to dismiss... Document filed by Alan Kachalsky, Christina Nikolov, Second Amendment Foundation, Inc..(rj) (Entered: 08/19/2010)
08/18/2010	<u>12</u>	LETTER addressed to Judge Cathy Seibel from Melissa Jean Rotini dated 8/16/2010 re:...It is respectfully requested that the Court grant the County leave to file a Motion to Dismiss the Complaint in the above referenced matter. In the event that Your Honor determines that a pre motion conference is warranted prior to the County making its motion to dismiss, the County is available at you convenience... Document filed by County of Westchester.(rj) (Entered: 08/19/2010)

09/07/2010		Minute Entry for proceedings held before Judge Cathy Seibel: Defendant has leave to serve motion to dismiss by 10/22/10; Opposition and cross motion for summary judgment by 11/12/10; reply to motion to dismiss and opposition on cross motion by 12/13/10; reply on motion for summary judgment by 1/7/11. See transcript.Pre-Motion Conference held on 9/7/2010. (Court Reporter Sue Ghorayeb) (rj) (Entered: 09/10/2010)
09/07/2010		Set/Reset Deadlines: Motions due by 10/22/2010. Responses due by 11/12/2010 Replies due by 12/13/2010. (rj) (Entered: 09/10/2010)
10/13/2010	<u>13</u>	ENDORSED LETTER addressed to Judge Cathy Seibel from Anthony J. Tomari dated 10/8/2010 re: This letter is submitted pursuant to your Individual Practices 1(a) and (e) to request a revision to the briefing schedule as set by this Court in its Minute Entry on September 10,2010... ENDORSEMENT: APPLICATION GRANTED. SO ORDERED (Signed by Judge Cathy Seibel on 10/8/2010) (rj) (Entered: 10/13/2010)
10/13/2010		Set/Reset Deadlines: Amended Pleadings due by 11/5/2010. Motions due by 11/5/2010. Responses due by 11/15/2010 Replies due by 12/13/2010. (rj) (Entered: 10/13/2010)
10/29/2010	<u>14</u>	ENDORSED LETTER addressed to Judge Cathy Seibel from Anthony J. Tomari dated 10/28/2010 re:...This letter is submitted pursuant to your individual practices 1(A) and 2(b)(i) to request permission to exceed the 25 page limit for State Defendants' legal memorandum of in support of their motion.... ENDORSEMENT: Application Granted. Plaintiff are permitted to file a similarly sized brief if they feel it necessary. SO ORDERED (Signed by Judge Cathy Seibel on 10/28/2010) (rj) (Entered: 10/29/2010)
11/04/2010	<u>15</u>	FILING ERROR – ELECTRONIC FILING FOR NON-ECF DOCUMENT – NOTICE of First Amended Complaint re: <u>13</u> Endorsed Letter,. Document filed by Alan Kachalsky, Christina Nikolov, Second Amendment Foundation, Inc., Johnnie Nance, Anna Marcucci-Nance, Eric Detmer. (Gura, Alan) Modified on 11/8/2010 (fk). (Entered: 11/04/2010)
11/05/2010	<u>16</u>	NOTICE OF APPEARANCE by Monica Anne Connell on behalf of Susan Cacace, Jeffrey A. Cohen (Connell, Monica) (Entered: 11/05/2010)
11/08/2010	<u>17</u>	ENDORSED LETTER addressed to Judge Cathy Seibel from Alan Gura dated 11/5/2010 re:...It is hoped that the Attorney General's Office would agree to accept service and appear for the new defendants, as there is no need to place them on duplicate tracks. If the Attorney General insists on service of a summons for the new defendant licensing officers, it should not be heard to come back, for a fourth time and ask again for a briefing modification. Without acceptance of service by the Attorney General for the new defendants, Plaintiffs cannot agree to any extension beyond Rule 12's twenty one day responsive period.... ENDORSEMENT: The Court understood the proposal in Mr.Tomari's 10/8/10 letter as Mr. Gura doe-i.e., re parties contemplated an amended complaint concurrent with the motion to dismiss. The Court also does not see why the representation of the new defendants cannot be formalized quickly. The original defendants shall file their motion to dismiss on or before 11/9/10. Once the new defendants are represented, they may join the original defendant's arguments by submitting a letter stating the same, and may add any additional arguments unique to them and the amended complaint. This shall be done by 12/6/10.Plaintiffs may oppose the original defendants' motion on whatever date they would like, when they should provide to me by letter, and the same is true for opposition to the new defendants submission if it contains new arguments.Defendants to reply 3 weeks thereafter as for Plaintiffs reply on cross motion 2 weeks thereafter. Plaintiffs counsel should be mindful, in deciding when to oppose. That the Court has a long queue of motions and is unlikely to reach this case for some time in any event. SO ORDERED (Signed by Judge Cathy Seibel on 11/5/2010) (rj) (Entered: 11/08/2010)
11/08/2010		Set/Reset Deadlines: Amended Pleadings due by 12/6/2010. Motions due by 11/9/2010. (rj) (Entered: 11/08/2010)

11/08/2010	<u>18</u>	AMENDED COMPLAINT amending <u>1</u> Complaint against Susan Cacace, Jeffrey A. Cohen, County of Westchester, Albert Lorenzor, Robert K. Holdman with JURY DEMAND. Document filed by Alan Kachalsky, Johnnie Nance, Christina Nikolov, Anna Marcucci-Nance, Eric Detmer, Second Amendment Foundation, Inc.. Related document: <u>1</u> Complaint filed by Second Amendment Foundation, Inc., Alan Kachalsky, Christina Nikolov. (fk) (Entered: 11/08/2010)
11/08/2010		AMENDED SUMMONS ISSUED as to Susan Cacace, Jeffrey A. Cohen, County of Westchester, Robert K. Holdman, Albert Lorenzor. (fk) (Entered: 11/08/2010)
11/17/2010	<u>19</u>	ENDORSED LETTER addressed to Judge Cathy Seibel from Alan Gura dated 11/12/2010 re: Pursuant to the Court's order of November 8, Plaintiffs will be serving their opposition to the motions to dismiss, and their motion for summary judgment, on January 5, 2010. Accordingly, Defendants' oppositions to the motion for summary judgment and replies on their motions to dismiss would be served three weeks later, on January 26, and Plaintiffs' final reply, and bundling filing date, would be February 9.... ENDORSEMENT: Schedule approved. SO ORDERED. (Signed by Judge Cathy Seibel on 11/16/2010) (mml) (Entered: 11/17/2010)
11/17/2010		Set/Reset Deadlines: Motions due by 1/5/2011. Responses due by 1/26/2011 Replies due by 2/9/2011. (mml) (Entered: 11/17/2010)
11/17/2010	<u>20</u>	ENDORSED LETTER addressed to Judge Cathy Seibel from Anthony J. Tomari dated 11/15/2010 re: This letter is submitted in response to the November 12,2010, letter from counsel for Plaintiffs proposing a briefing schedule in accordance with this court's endorsement order dated November 5,2010... ENDORSEMENT: APPLICATION DENIED. SO ORDERED (Signed by Judge Cathy Seibel on 11/16/2010) (rj) (Entered: 11/17/2010)
11/18/2010	<u>21</u>	MOTION to File Amicus Brief. Document filed by Brady Center to Prevent Gun Violence. (Attachments: # <u>1</u> Ex. A (Brief of Amicus Curiae Brady Center to Prevent Gun Violence))(Baumann, Kevin) (Entered: 11/18/2010)
11/22/2010	<u>22</u>	RESPONSE to Motion re: <u>21</u> MOTION to File Amicus Brief.. Document filed by Eric Detmer, Alan Kachalsky, Anna Marcucci-Nance, Johnnie Nance, Christina Nikolov, Second Amendment Foundation, Inc.. (Gura, Alan) (Entered: 11/22/2010)
11/22/2010	<u>23</u>	REPLY to Response to Motion re: <u>21</u> MOTION to File Amicus Brief.. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Tomari, Anthony) (Entered: 11/22/2010)
11/22/2010	<u>24</u>	MOTION to file an Amended Brief of Amicus Curiae. Document filed by Brady Center to Prevent Gun Violence. (Attachments: # <u>1</u> Ex. A (Amended Brief of Amicus Curiae Brady Center to Prevent Gun Violence))(Baumann, Kevin) (Entered: 11/22/2010)
11/22/2010	<u>25</u>	RESPONSE to Motion re: <u>24</u> MOTION to file an Amended Brief of Amicus Curiae., <u>21</u> MOTION to File Amicus Brief.. Document filed by County of Westchester. (Rotini, Melissa-Jean) (Entered: 11/22/2010)
11/24/2010	<u>26</u>	SUMMONS RETURNED EXECUTED. Robert K. Holdman served on 11/22/2010, answer due 12/13/2010; Albert Lorenzor served on 11/8/2010, answer due 11/29/2010. Service was accepted by Lisa Girandola on behalf of Lorenzo & Karl Lawless (on behalf of Holdman). Document filed by Alan Kachalsky. (Gelardi, Vincent) (Entered: 11/24/2010)
12/13/2010	<u>27</u>	ORDER granting <u>24</u> Motion re: <u>24</u> MOTION to file an Amended Brief of Amicus Curiae....ENDORSED, Application granted. The Clerk is to terminate Doc. 24 (Doc. 21 should also be terminated as it is moot in light of the instant application)..SO ORDERED. (Signed by Judge Cathy Seibel on 12/9/2010) (jma) (Entered: 12/13/2010)
01/25/2011		Set/Reset Deadlines: Plaintiff's Reply due by: 2/9/2011, Defendant's reply due by: 2/23/2011, (jty) (Entered: 01/26/2011)
01/25/2011	<u>29</u>	ENDORSED LETTER addressed to Judge Cathy Seibel from Alan Gura dated 1/24/2011 re: Plaintiffs would respectfully reserve any request for additional time

		to respond to the new motion for summary judgment once it has been received and evaluated. ENDORSEMENT: The request is reasonable and the Court expects Defendants will not have a problem if a reasonable extension is requested. (Signed by Judge Cathy Seibel on 1/24/2011) (mml) (Entered: 01/28/2011)
01/26/2011	<u>28</u>	ENDORSED LETTER addressed to Judge Cathey Seibel from Anthony J. Tomari dated 1/21/2011...Under the State Defendants' proposed amendment to the briefing schedule, State Defendants will still serve their motion-to-dismiss reply memorandum and their opposition to plaintiffs' motion for summary judgment, on January 26, 2011, the present date, and on that same date will also serve their papers supporting their cross-motion for summary judgment. Plaintiffs would then have until February 9, the date already in place, to serve their reply in further support of their motion for summary judgment as well as their opposition to State Defendants' cross-motion for summary judgment. Thereafter, in the only change to the current briefing schedule, State Defendants will have two weeks, or until February 23, 2011 to serve their reply memorandum on their cross-motion for summary judgment, immediately following which, all parties will electronically file all their own motion papers. Thus the only alteration to the current schedule would be a two week time period following service of plaintiffs' opposition to allow the State Defendants' to submit their reply memorandum in further support of their cross-motion for summary judgment. In addition, State Defendants request, pursuant to your individual practice 2 (B)(i), and in accordance with your Order of October 28, 2010, that they be allowed to submit a reply brief in further support of their motion to dismiss of up to fifteen (15) pages in length, and be allowed up to fifty (50) pages for their memorandum of law which will be both in support of their motion for summary judgment) as well as in opposition to plaintiffs motion for summary judgment. I tried to reach Plaintiffs' counsel today to ascertain their consent but was unable. Defendant County of Westchester consents to all the requests herein. Thank you for your attention to this matter. All parties will receive a copy of this letter simultaneously by facsimile transmission. ENDORSEMENT: Schedule approved on consent. Reply may be 15 pages. Memorandum in opposition to plaintiff's MSJ + in support of the state defendants' MSJ may total 40 page. So Ordered. (Signed by Judge Cathy Seibel on 1/24/2011) (jty) (Entered: 01/26/2011)
02/23/2011	<u>30</u>	MOTION to Dismiss <i>Notice of Motion to Dismiss</i> . Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Tomari, Anthony) (Entered: 02/23/2011)
02/23/2011	<u>31</u>	AFFIRMATION of Anthony J. Tomari in Support re: <u>30</u> MOTION to Dismiss <i>Notice of Motion to Dismiss</i> .. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Tomari, Anthony) (Entered: 02/23/2011)
02/23/2011	<u>32</u>	MEMORANDUM OF LAW in Support re: <u>30</u> MOTION to Dismiss <i>Notice of Motion to Dismiss</i> .. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Tomari, Anthony) (Entered: 02/23/2011)
02/23/2011	<u>33</u>	MOTION to Dismiss. Document filed by County of Westchester. (Attachments: # <u>1</u> Declaration, # <u>2</u> Memorandum of Law) (Rotini, Melissa-Jean) (Entered: 02/23/2011)
02/23/2011	<u>34</u>	DECLARATION of Anthony J. Tomari in Support re: <u>30</u> MOTION to Dismiss <i>Notice of Motion to Dismiss</i> .. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Tomari, Anthony) (Entered: 02/23/2011)
02/23/2011	<u>35</u>	SUPPLEMENTAL MEMORANDUM OF LAW in Support re: <u>30</u> MOTION to Dismiss <i>Notice of Motion to Dismiss</i> . <i>Re: First Amended Complaint</i> . Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Tomari, Anthony) (Entered: 02/23/2011)
02/23/2011	<u>36</u>	MEMORANDUM OF LAW in Opposition re: <u>30</u> MOTION to Dismiss <i>Notice of Motion to Dismiss</i> ., <u>33</u> MOTION to Dismiss.. Document filed by Eric Detmer, Alan Kachalsky, Anna Marcucci-Nance, Johnnie Nance, Christina Nikolov, Second Amendment Foundation, Inc.. (Gura, Alan) (Entered: 02/23/2011)
02/23/2011	<u>37</u>	REPLY MEMORANDUM OF LAW in Support re: <u>30</u> MOTION to Dismiss <i>Notice of Motion to Dismiss</i> .. Document filed by Susan Cacace, Jeffrey A. Cohen,

		Robert K. Holdman, Albert Lorenzor. (Tomari, Anthony) (Entered: 02/23/2011)
02/23/2011	<u>38</u>	REPLY MEMORANDUM OF LAW in Support re: <u>33</u> MOTION to Dismiss.. Document filed by County of Westchester. (Rotini, Melissa-Jean) (Entered: 02/23/2011)
02/23/2011	<u>39</u>	MOTION for Summary Judgment. Document filed by Eric Detmer, Alan Kachalsky, Anna Marcucci-Nance, Johnnie Nance, Christina Nikolov, Second Amendment Foundation, Inc.. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Declaration of Alan Kachalsky, # <u>10</u> Declaration of Anna Marcucci-Nance, # <u>11</u> Declaration of Eric Detmer, # <u>12</u> Declaration of Christina Nikolov, # <u>13</u> Declaration of Johnnie Nance, # <u>14</u> Declaration of Juliann Versnel)(Gura, Alan) (Entered: 02/23/2011)
02/23/2011	<u>40</u>	MEMORANDUM OF LAW in Support re: <u>39</u> MOTION for Summary Judgment.. Document filed by Eric Detmer, Alan Kachalsky, Anna Marcucci-Nance, Johnnie Nance, Christina Nikolov, Second Amendment Foundation, Inc.. (Gura, Alan) (Entered: 02/23/2011)
02/23/2011	<u>41</u>	DECLARATION of Separate Statement in Support re: <u>39</u> MOTION for Summary Judgment.. Document filed by Eric Detmer, Alan Kachalsky, Anna Marcucci-Nance, Johnnie Nance, Christina Nikolov, Second Amendment Foundation, Inc.. (Gura, Alan) (Entered: 02/23/2011)
02/23/2011	<u>42</u>	CROSS MOTION for Summary Judgment – <i>Notice of Cross-Motion</i> –. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor.(Tomari, Anthony) (Entered: 02/23/2011)
02/23/2011	<u>43</u>	MEMORANDUM OF LAW in Support re: <u>39</u> MOTION for Summary Judgment., <u>42</u> CROSS MOTION for Summary Judgment – <i>Notice of Cross-Motion</i> –. and <i>In Opposition to Plaintiffs' Motion for Summary Judgment</i> . Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Tomari, Anthony) (Entered: 02/23/2011)
02/23/2011	<u>44</u>	RULE 56.1 STATEMENT. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Tomari, Anthony) (Entered: 02/23/2011)
02/23/2011	<u>45</u>	DECLARATION of Rotini in Opposition re: <u>39</u> MOTION for Summary Judgment.. Document filed by County of Westchester. (Rotini, Melissa-Jean) (Entered: 02/23/2011)
02/23/2011	<u>46</u>	MEMORANDUM OF LAW in Opposition re: <u>39</u> MOTION for Summary Judgment.. Document filed by County of Westchester. (Rotini, Melissa-Jean) (Entered: 02/23/2011)
02/23/2011	<u>47</u>	MEMORANDUM OF LAW in Opposition re: <u>42</u> CROSS MOTION for Summary Judgment – <i>Notice of Cross-Motion</i> –. and <i>in Reply to Oppsition to Plaintiffs' Summary Judgment Motion</i> . Document filed by Eric Detmer, Alan Kachalsky, Anna Marcucci-Nance, Johnnie Nance, Christina Nikolov, Second Amendment Foundation, Inc.. (Attachments: # <u>1</u> separate statement of disputed facts)(Gura, Alan) (Entered: 02/23/2011)
02/23/2011	<u>48</u>	RESPONSE in Opposition re: <u>39</u> MOTION for Summary Judgment. <i>Response to Plaintiffs' Rule 56.1 Statement</i> . Document filed by County of Westchester. (Rotini, Melissa-Jean) (Entered: 02/23/2011)
02/23/2011	<u>49</u>	DECLARATION of Anthony J Tomari in Support re: <u>39</u> MOTION for Summary Judgment., <u>42</u> CROSS MOTION for Summary Judgment – <i>Notice of Cross-Motion</i> –.. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Exhibit J)(Tomari, Anthony) (Entered: 02/23/2011)
02/23/2011	<u>50</u>	FIRST MOTION to File Amicus Brief. Document filed by WESTCHESTER COUNTY FIREARMS OWNERS ASSOCIATION, INC.. (Attachments: # <u>1</u> Exhibit Amicus Brief)(Piscionere, Anthony) (Entered: 02/23/2011)

02/23/2011	<u>51</u>	DECLARATION of Anthony J. Tomari in Support re: <u>39</u> MOTION for Summary Judgment., <u>42</u> CROSS MOTION for Summary Judgment – <i>Notice of Cross–Motion</i> –.. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Attachments: # <u>1</u> Exhibit K, # <u>2</u> Exhibit L, # <u>3</u> Exhibit M, # <u>4</u> Exhibit N, # <u>5</u> Exhibit O, # <u>6</u> Exhibit P, # <u>7</u> Exhibit Q)(Tomari, Anthony) (Entered: 02/23/2011)
02/23/2011	<u>52</u>	DECLARATION of Philip Cook in Support re: <u>39</u> MOTION for Summary Judgment., <u>42</u> CROSS MOTION for Summary Judgment – <i>Notice of Cross–Motion</i> –.. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Tomari, Anthony) (Entered: 02/23/2011)
02/23/2011	<u>53</u>	DECLARATION of Franklin Zimring in Support re: <u>39</u> MOTION for Summary Judgment., <u>42</u> CROSS MOTION for Summary Judgment – <i>Notice of Cross–Motion</i> –.. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Tomari, Anthony) (Entered: 02/23/2011)
02/23/2011	<u>54</u>	DECLARATION of Hon. Susan Cacace in Support re: <u>39</u> MOTION for Summary Judgment., <u>42</u> CROSS MOTION for Summary Judgment – <i>Notice of Cross–Motion</i> –.. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Tomari, Anthony) (Entered: 02/23/2011)
02/23/2011	<u>55</u>	DECLARATION of Hon. Jeffrey A. Cohen in Support re: <u>39</u> MOTION for Summary Judgment., <u>42</u> CROSS MOTION for Summary Judgment – <i>Notice of Cross–Motion</i> –.. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Tomari, Anthony) (Entered: 02/23/2011)
02/23/2011	<u>56</u>	DECLARATION of Hon. Albert Lorenzo in Support re: <u>39</u> MOTION for Summary Judgment., <u>42</u> CROSS MOTION for Summary Judgment – <i>Notice of Cross–Motion</i> –.. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Tomari, Anthony) (Entered: 02/23/2011)
02/23/2011	<u>57</u>	DECLARATION of Hon. Robert K. Holdman in Support re: <u>39</u> MOTION for Summary Judgment., <u>42</u> CROSS MOTION for Summary Judgment – <i>Notice of Cross–Motion</i> –.. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Tomari, Anthony) (Entered: 02/23/2011)
02/23/2011	<u>58</u>	DECLARATION of Hon. David R. Roefaro in Support re: <u>39</u> MOTION for Summary Judgment., <u>42</u> CROSS MOTION for Summary Judgment – <i>Notice of Cross–Motion</i> –.. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Tomari, Anthony) (Entered: 02/23/2011)
02/23/2011	<u>59</u>	DECLARATION of Hon. Stephanie A. Miner in Support re: <u>39</u> MOTION for Summary Judgment., <u>42</u> CROSS MOTION for Summary Judgment – <i>Notice of Cross–Motion</i> –.. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Tomari, Anthony) (Entered: 02/23/2011)
02/23/2011	<u>60</u>	DECLARATION of Thomas L. Fazio in Support re: <u>39</u> MOTION for Summary Judgment., <u>42</u> CROSS MOTION for Summary Judgment – <i>Notice of Cross–Motion</i> –.. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Tomari, Anthony) (Entered: 02/23/2011)
02/23/2011	<u>61</u>	DECLARATION of James Sherman in Support re: <u>39</u> MOTION for Summary Judgment., <u>42</u> CROSS MOTION for Summary Judgment – <i>Notice of Cross–Motion</i> –.. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Tomari, Anthony) (Entered: 02/23/2011)
02/23/2011	<u>62</u>	DECLARATION of Andrew Lunetta in Support re: <u>39</u> MOTION for Summary Judgment., <u>42</u> CROSS MOTION for Summary Judgment – <i>Notice of Cross–Motion</i> –.. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Tomari, Anthony) (Entered: 02/23/2011)
02/23/2011	<u>63</u>	DECLARATION of Bruce Bellom in Support re: <u>39</u> MOTION for Summary Judgment., <u>42</u> CROSS MOTION for Summary Judgment – <i>Notice of Cross–Motion</i> –.. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Tomari, Anthony) (Entered: 02/23/2011)

02/23/2011	<u>64</u>	DECLARATION of Marge Cohen in Support re: <u>39</u> MOTION for Summary Judgment., <u>42</u> CROSS MOTION for Summary Judgment – <i>Notice of Cross–Motion</i> –.. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Tomari, Anthony) (Entered: 02/23/2011)
02/23/2011	<u>65</u>	DECLARATION of Anthony J. Tomari in Support re: <u>39</u> MOTION for Summary Judgment., <u>42</u> CROSS MOTION for Summary Judgment – <i>Notice of Cross–Motion</i> –.. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Attachments: # <u>1</u> Exhibit R, # <u>2</u> Exhibit S (1) – (7), # <u>3</u> Exhibit S (8) – (11))(Tomari, Anthony) (Entered: 02/23/2011)
02/23/2011	<u>66</u>	DECLARATION of Anthony J. Tomari in Support re: <u>39</u> MOTION for Summary Judgment., <u>42</u> CROSS MOTION for Summary Judgment – <i>Notice of Cross–Motion</i> –.. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Attachments: # <u>1</u> Exhibit S (12) – (13), # <u>2</u> Exhibit S (14))(Tomari, Anthony) (Entered: 02/23/2011)
02/23/2011	<u>67</u>	REPLY MEMORANDUM OF LAW in Support re: <u>42</u> CROSS MOTION for Summary Judgment – <i>Notice of Cross–Motion</i> –.. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Tomari, Anthony) (Entered: 02/23/2011)
02/24/2011	<u>68</u>	MOTION to File Amicus Brief. Document filed by Academics for the Second Amendment, LI Second Amendment Preservation Association. (Attachments: # <u>1</u> Exhibit Proposed Amicus Brief)(Eisenberg, Lloyd) (Entered: 02/24/2011)
02/24/2011	<u>69</u>	ENDORSED LETTER addressed to Judge Cathy Seibel from Anthony G. Piscionere dated 2/24/2011 re:...This office was under the impression that yesterday was the final date to file any such amicus brief. To the extent that our consent might be considered relevant by the Court, we consent to the State Defendants and County of Westchester's request for fourteen (14) days, should Your Honor grant leave for such filings, to respond to our amicus brief. ENDORSEMENT: State Defendants' and County of Westchesters' request for 14 day extension is hereby granted.SO ORDERED (Signed by Judge Cathy Seibel on 2/24/2011) (rj) (Entered: 02/25/2011)
02/24/2011	<u>70</u>	Letter addressed to Judge Cathy Seibel from Anthony J. Tomari dated 2/23/2011 re:...The proposed amici have not explained the reason for the extreme lateness of their filings, or the lack of notice. The timing of the applications has denied the State Defendants any opportunity to respond to the factual representations or legal arguments asserted therein. Regardless, in lieu of opposing such applications, in accordance with the time frame established in Rule 6.1 of the Local Civil Rules of the United States District Courts for the Southern and Eastern Districts of New York, State Defendants request fourteen (14) days from the date this Court grants leave for such filings, to respond to new matters in those briefs. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor.(rj) (Entered: 02/25/2011)
02/24/2011	<u>71</u>	Letter addressed to Judge Cathy Seibel from Melissa Jean Rotini dated 2/24/2011 re:...The County hereby joins in the State Defendants' request for time to respond to the amicus should Your Honor grant leave to file the Academics for the Second Amendment, LI Second Amendment Preservation Foundation Association, and the Westchester County Firearms Association. Document filed by County of Westchester.(rj) (Entered: 02/25/2011)
03/10/2011	<u>72</u>	SUPPLEMENTAL MEMORANDUM OF LAW in Support re: <u>33</u> MOTION to Dismiss. <i>and in response to amicus briefs filed at docket nos.: 50 and 68.</i> Document filed by County of Westchester. (Rotini, Melissa–Jean) (Entered: 03/10/2011)
03/10/2011	<u>73</u>	RESPONSE in Support re: <u>42</u> CROSS MOTION for Summary Judgment – <i>Notice of Cross–Motion</i> –. – <i>State Defendants Response to Amici Briefs</i> –. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Tomari, Anthony) (Entered: 03/10/2011)
03/21/2011	<u>74</u>	NOTICE of Newly Decided Authority re: <u>30</u> MOTION to Dismiss <i>Notice of Motion to Dismiss</i> .. Document filed by Eric Detmer, Alan Kachalsky, Anna Marcucci–Nance, Johnnie Nance, Christina Nikolov, Second Amendment

		Foundation, Inc.. (Gura, Alan) (Entered: 03/21/2011)
04/15/2011	<u>75</u>	NOTICE of Newly Decided Authority re: <u>30</u> MOTION to Dismiss <i>Notice of Motion to Dismiss.</i> , <u>33</u> MOTION to Dismiss.. Document filed by Eric Detmer, Alan Kachalsky, Anna Marcucci–Nance, Johnnie Nance, Christina Nikolov, Second Amendment Foundation, Inc.. (Attachments: # <u>1</u> Exhibit A)(Gura, Alan) (Entered: 04/15/2011)
05/02/2011	<u>76</u>	Letter addressed to Judge Cathy Seibel from Anthony Tomari dated 4/29/2011 re: Notification of a decision from the NYS Appellate Division. Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor.(fk) (Entered: 05/02/2011)
07/29/2011	<u>77</u>	NOTICE of newly decided authority re: <u>30</u> MOTION to Dismiss <i>Notice of Motion to Dismiss.</i> , <u>33</u> MOTION to Dismiss., <u>39</u> MOTION for Summary Judgment., <u>42</u> CROSS MOTION for Summary Judgment – <i>Notice of Cross–Motion</i> –.. Document filed by Eric Detmer, Alan Kachalsky, Anna Marcucci–Nance, Johnnie Nance, Christina Nikolov, Second Amendment Foundation, Inc.. (Gura, Alan) (Entered: 07/29/2011)
08/16/2011	<u>78</u>	SUPPLEMENTAL MEMORANDUM OF LAW in Support re: <u>30</u> MOTION to Dismiss <i>Notice of Motion to Dismiss.</i> , <u>42</u> CROSS MOTION for Summary Judgment – <i>Notice of Cross–Motion</i> –. in Response to Plaintiffs' <i>Notice of Newly Decided Authority</i> . Document filed by Susan Cacace, Jeffrey A. Cohen, Robert K. Holdman, Albert Lorenzor. (Connell, Monica) (Entered: 08/16/2011)
08/17/2011	<u>79</u>	ORDER: Third parties Westchester County Firearm Owners Association, Inc., Academics for the Second Amendment, and LI Second Amendment Preservation Association have applied to the Court to file briefs as amici curiae in the above-captioned case. Given the Court's broad discretion in deciding whether to accept amicus briefs, see <i>City of NY v. United States</i> , 971 F. Supp. 789, 791 n.3 (S.D.N.Y. 1997), I hereby GRANT the instant motions. The Clerk of Court is respectfully directed to terminate Docs. 50 and 68. (Signed by Judge Cathy Seibel on 8/16/2011) (lnl) (Entered: 08/17/2011)
09/02/2011	<u>80</u>	OPINION AND ORDER: For the reasons stated above, I hereby DENY the State Defendants' and the County's Motions to Dismiss, DENY Plaintiffs' Motion for Summary Judgment, and GRANT the State Defendants' Cross–Motion for Summary Judgment. Although the County has not cross–moved for summary judgment, I hereby GRANT it summary judgment sua sponte. ³⁸ The Clerk of the Court is respectfully directed to terminate the pending motions, (Docs. 30, 33, 39,42), and close the case. (Signed by Judge Cathy Seibel on 9/2/2011) (fk) (Entered: 09/06/2011)
09/06/2011		Transmission to Judgments and Orders Clerk. Transmitted re: <u>80</u> Opinion and Order to the Judgments and Orders Clerk. (fk) (Entered: 09/06/2011)
09/07/2011	<u>81</u>	JUDGMENT – It is, ORDERED, ADJUDGED AND DECREED: that the Court denies the State Defendants and the Countys Motions to Dismiss, denies Plaintiffs Motion for Summary, and grants the defendants Cross–Motion for Summary Judgment, and although the County has not moved for summary judgment, the Court also grants the County Summary Judgment sua sponte. Accordingly, Judgment is entered in favor of defendants, and the case is hereby closed. (Signed by Clerk of Court Ruby Krajick on 09/07/2011) (dcr) (Entered: 09/07/2011)
09/07/2011	<u>82</u>	NOTICE OF APPEAL. Document filed by Johnnie Nance, Christina Nikolov, Second Amendment Foundation, Inc. Filing fee \$ 455.00, receipt number 7001434. (rj) (Entered: 09/08/2011)
09/07/2011		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: <u>82</u> Notice of Appeal. (rj) (Entered: 09/08/2011)
09/07/2011		Transmission of Notice of Appeal to the District Judge re: <u>82</u> Notice of Appeal. (rj) (Entered: 09/08/2011)
09/15/2011		Appeal Record Sent to USCA (Electronic File). Certified Indexed record on Appeal Electronic Files were transmitted to the U.S. Court of Appeals. (cda) (Entered: 09/15/2011)

09/16/2011	<u>83</u>	AMENDED NOTICE OF APPEAL re: <u>82</u> Notice of Appeal, <u>81</u> Judgment. Document filed by Eric Detmer, Alan Kachalsky, Anna Marcucci-Nance, Johnnie Nance, Christina Nikolov, Second Amendment Foundation, Inc. (fk) (Entered: 09/20/2011)
09/20/2011		Transmission of Notice of Appeal to the District Judge re: <u>83</u> Amended Notice of Appeal. (fk) (Entered: 09/20/2011)
09/22/2011	<u>84</u>	NOTICE OF APPEARANCE by Thomas G. Gardiner on behalf of County of Westchester (Gardiner, Thomas) (Entered: 09/22/2011)
09/22/2011	<u>85</u>	NOTICE OF APPEAL from <u>81</u> Judgment. Document filed by County of Westchester. Filing fee \$ 455.00, receipt number 465407001565. (rj) (Entered: 09/27/2011)
09/22/2011		Transmission of Notice of Appeal to the District Judge re: <u>85</u> Notice of Appeal. (rj) (Entered: 09/27/2011)
09/22/2011		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: <u>85</u> Notice of Appeal. (rj) (Entered: 09/27/2011)
09/28/2011		Appeal Record Sent to USCA (Electronic File). Certified Indexed record on Appeal Electronic Files were transmitted to the U.S. Court of Appeals. (cda) (Entered: 09/28/2011)